

AG Contract No. KR95 2531TRN
ADOT ECS File No. JPA 95-200
Project: STP-WIN-0(3)P/SL382 01R
Section: LaPosada Hotel Right
of Way Acquisition

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF WINSLOW

THIS AGREEMENT is entered into 1 May, 1996,
pursuant to Arizona Revised Statutes, Sections 11-851 through 11-
954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
CITY OF WINSLOW, acting by and through its MAYOR and CITY COUNCIL
(the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 and 28-112 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. The City is empowered by Arizona Revised Statutes
Section 48-572 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has authorized
the undersigned to execute this agreement on behalf of the City.

3. Congress has authorized appropriations for, but not
limited to, transportation enhancements including real property
right of way acquisition.

4. Such real property acquisition, within the boundary of
the City has been selected by the City; the real property survey
has been completed, and, as required, submitted to the Federal
Highway Administration (FHWA) for its approval.

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| NO. <u>20672</u> |
| FILED WITH SECRETARY OF STATE |
| Date Filed <u>05/01/96</u> |
| <u>Jane Lee Hull</u> Secretary of State |
| By <u>Vicky Greenwald</u> |

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The City, in order to obtain federal funds for the real property acquisition, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA.

7. The acquisition embraced in this agreement, to be administered by the City, and the estimated costs are as follows: Acquisition of Real Property.

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|----------------------------|---------------|
| Estimated Acquisition Cost | \$ 168,000.00 |
| Federal Aid Funds @ 80% | \$ 134,400.00 |
| City Funds @ 20% | \$ 33,600.00 |

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned acquisition to FHWA with the recommendation that it be approved.

a. If such acquisition is approved by FHWA and the funds are available for acquisition of the real property, the City with the aid and consent of the State and the FHWA will proceed to acquire the real property right of way. The State will enter into a Project Agreement with FHWA and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said acquisition required by a change in the extent or scope of the acquisition called for in this agreement, the City shall be obligated to incur any expenditure in excess of \$625,000.00.

2. Prior to the real property acquisition, the City shall set aside sufficient funds in the amount determined to be necessary to match federal funds in the ratio required.

3. Upon completion of the acquisition, the City shall ensure appropriate and proper maintenance of the real property.

a. At the time the real property deed is transferred to the City, the City shall record a protective covenant with the property deed to ensure that the property, including all improvements existing at the time of the property deed transfer, is protected from historically unsympathetic changes for a period of twenty five (25) years from the date of this agreement. The City shall take appropriate measures to protect the property against willful damage and vandalism.

b. In the event the protective covenant recorded with the property deed is violated, the City will reimburse the FHWA a pro-rata amount of \$20,000.00 for each year, or fraction of a year, remaining in the twenty five (25) year period, in an amount not to exceed the amount of federal funds expended for the project.

4. The City shall allow public access to the real property during normal business hours, including, but not limited to, tours and announced public meetings.

5. State employees may perform any inspections of the project or audit any books or records of the City in order for the State to satisfy itself that the monies on the acquisition have been spent and the acquisition completed in accordance with the statutes, rules, and regulations of the State and federal government.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the acquisition of the real property, cost over-runs and claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the acquisition of real property covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the acquisition provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the acquisition; provided, however, that any provisions in this agreement for maintenance shall be as described in Section II.3.a herein.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:


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|------------------------------|----------------------|
| Department of Transportation | City of Winslow |
| Joint Project Administration | City Manager |
| 205 S. 17th Avenue - 616E | 21 Williamson Avenue |
| Phoenix, AZ 85007 | Winslow, AZ 86047 |


9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF WINSLOW

STATE OF ARIZONA
Department of Transportation

By 
JAMES L. BOLES
Mayor

By 
PETER L. ENO
Contract Administrator

ATTEST:


By 
LINDA SAMSON
City Clerk

613/6-10
3nov

RESOLUTION

BE IT RESOLVED on this 4th day of December 1995, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Winslow for the purpose of defining responsibilities in the construction and maintenance of the La Posada Hotel transportation enhancement in the City.

Therefore, authorization is hereby granted to draft said agreements which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


for LARRY S. BONINE
Director

ORDINANCE NO. 694

AN ORDINANCE OF THE CITY OF WINSLOW APPROVING
THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE
STATE OF ARIZONA DEPARTMENT OF TRANSPORTATION
AND THE CITY OF WINSLOW REGARDING THE LA POSADA _
HOTEL, AUTHORIZING THE MAYOR TO EXECUTE THE
AGREEMENT AND DECLARING AN EMERGENCY

WHEREAS, the City of Winslow desires to enter into an Intergovernmental Agreement regarding the LaPosada Hotel in the City of Winslow, with the State of Arizona Department of Transportation, a copy of which is attached hereto as Exhibit "A", on the 16TH day of April, 1996; and

WHEREAS, the City Charter requires that an ordinance be adopted to authorize said Intergovernmental Agreement since it involves the purchase of land;

THEREFORE BE IT ORDAINED AS FOLLOWS:

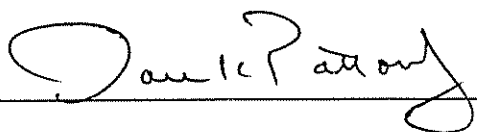
SECTION 1. The Intergovernmental Agreement between the City of Winslow and the State of Arizona dated the 16TH day of April, 1996, is hereby approved and the Mayor is authorized to execute the same.

SECTION 2. It being necessary for the preservation of the peace, health, safety and general welfare of the citizens of the City of Winslow that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall become effective upon its passage and adoption.

APPROVAL OF THE WINSLOW CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF WINSLOW and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 16TH day of April, 1996.



City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

TRN Main: 542-1680

Direct: 542-8837

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GRANT WOODS
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR95-2531-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 24th day of April, 1996.

GRANT WOODS
Attorney General

A handwritten signature in black ink, appearing to read "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
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